

CHAPTER 5

MOTIONS, APPLICATIONS, STIPULATIONS, ABANDONMENT, AND ONLINE CASE INFORMATION

There are a few other types of actions that might take place during the course of an appeal. At some point during your case, you may need to request something from the Court. Typically, these requests take one of three forms:

1. a motion
2. an application
3. a stipulation

This chapter introduces you to motions, applications and stipulations and guides you through when and how to use them. Additionally, this chapter describes how to properly abandon, settle or dismiss an appeal, as well as how to receive the most current information about the status of your appeal.

Motions

In all instances except those outlined in CRC rule 43, requests to the Court of Appeal are made by motion.⁷ CRC rule 41 covers “motions in the reviewing court.” Motions are the formal means for asking the court to cure a problem or take some sort of action in a case. If there are problems with the record, a desire for preference or priority in getting the court to handle the case or any problem other than the failure to file a timely Notice of Appeal, you can file a motion or application asking the court to take care of the problem. (See CRC rules 19, 41, 43.) A motion can also be used to vacate a dismissal that has been entered against you, to consolidate two cases, and so forth.

A motion should be typewritten, with Proof of Service (see [Sample Form C](#)) on all counsel and self-represented parties, and an original and three copies must be filed with the Court of Appeal. (CRC rules 41(a), 44(b).)

⁷ CRC rule 43 discusses applications to the Court for routine matters, namely extensions of time to file briefs.

You need to tell the Court of Appeal why you are making the request (show “good cause”), provide additional information that might be relevant, and let the Court of Appeal know what it is you want it to do (such as grant preference in the processing of your case based on a terminal illness, add to the record, take judicial notice of some fact, etc.).

Along with the motion you should provide points and authorities to justify the request and documentary evidence (declarations and exhibits) if it is needed to support your request. Points and authorities are just that: the points set out the argument you wish to make, and the authorities give the legal reasons that the motion should be granted or denied (see [Sample Form L](#)).

At least one declaration should, under penalty of perjury, give the facts surrounding the request, what you have done or attempted to do to take care of the problem, what you want the court to do, and why it is necessary (see [Sample Form M](#)). If your motion is incomplete, the court may deny the motion “without prejudice,” which means you may correct whatever problems there are and re-file the motion.

Any opposition to the motion should be filed within 15 days from the date of service. Most motions are not ruled on until the time to file the opposition has passed. If no opposition is filed, the motion is usually granted. Generally there are no hearings on a motion, but on very rare occasions there may be. (CRC rule 41(b).)

Motion to Augment the Record

A motion to augment the record is used when items are missing from the record on appeal (the clerk’s or reporter’s transcript) or if new items need to be added. (See [Sample Forms L, M, N, O, P](#).)

If the superior court clerk or reporter failed to include something that was designated in your designation of record, you do not need to file a motion to augment. Instead, serve and file a notice to correct the record in the superior court. (See [Chapter 2, p. 17](#).) However, **if you already have a copy of the document** that the superior court clerk omitted, it may be faster and cheaper to file a motion to augment to which you just attach the document instead of filing a notice to correct the record.

If new documents need to be added to the record, a motion to augment must be filed with the Court of Appeal. Each item requested must be a part of the superior court file, such as a document that was filed in the superior court, received in evidence, or lodged with the court or is a transcript of oral proceedings. An item that was “lodged” with the court (rather than being filed) is returned to the parties and thus is not physically in the superior court file or in the custody of the court.

Any document or transcript that you want to add to the record should be attached to the motion. If the court grants the motion, it then augments the record with the documents or transcripts included with the motion. A Motion to Augment Record on Appeal with documents attached is included as [Sample Form N](#).

If you do not have copies of the documents to be added, the items must be identified as they are in a designation of record so that, if the motion is granted, the superior court can prepare a **“supplemental” clerk’s and/or reporter’s transcripts.**⁸ (CRC rule 12.)

If the motion for a supplemental clerk’s and/or reporter’s transcript is granted, the superior court will prepare an estimate of the cost of preparing the supplements. After the estimate is paid, the superior court is usually given 30 days to prepare the materials. If your brief is due within this time, your motion to augment should include a request to extend the deadline for filing the brief to 30 days after the supplemental transcript is filed (see applications for extension of time later in this chapter.) The title of your document should be “Motion to Augment the Record and Application to Extend Time to File [Appellant’s Opening, or Respondent’s or Appellant’s Reply] Brief.”

Applications and Stipulations

For more routine matters, mainly the extension of time to file briefs, the parties can request permission from the court using an application. An application is less formal than a motion. Generally, the Court of Appeal does not hold an application for opposition and rules on it immediately. The rules for applications are defined in CRC rule 43.

In addition to motions and applications, the two parties in a case can stipulate that an action take place or a problem be remedied. Stipulations can be used in place of any action for which a single party might otherwise use a motion or an application.

Applications/Stipulations for Extension of Time to File Brief

The parties may stipulate to extend the briefing time up to 60 days for each type of brief by filing one or more stipulations in the Court of Appeal before the brief is due. (CRC Rule 15(b)(1).) The stipulation must be signed by and served on all parties. (See [Sample Form Q](#).)

⁸ A Motion to Augment where the documents must be copied by the superior court to prepare a supplemental clerk’s transcript is included as [Sample Form O](#). A Motion to Augment Record on Appeal with reporter’s transcript is included as [Sample Form P](#).

If a party needs more than the 60 days already stipulated to, or if the opposing party refuses to stipulate to an extension, the party needing the extension must file an application for extension of time. (See [Sample Form R](#).) The party seeking additional time must give reasons, also known as “**good cause**,” why that extension is needed. In addition, the party applying for an extension of time should explain either that (1) the applicant was unable to get the agreement of the other party to a stipulated extension or (2) the parties have already stipulated to the maximum 60 days and the applicant now is seeking permission of the court for a further extension. (CRC Rule 15(b)(2).)

An Application for Extension of Time to File Brief (see [Sample Form R](#)) should include the current deadline for the brief or item, the length of the requested extension, any previous applications that have been granted or denied, and any notices that have been issued under CRC rule 17, in addition to a statement of good cause (the reason). (CRC rules 43, 45(c), 45.5.)

You need to file with the court an original Proof of Service of the application on all parties (see [Sample Form C](#)), and extra copies with a self-addressed, postage prepaid envelopes for mailing the order that grants or denies the application to all counsel and self-represented parties. A request for an extension of time must be served on the party represented by the attorney requesting the extension. Evidence of this need not include the client’s address. (CRC rule 43, 45(f).)

Most often, applications for extension of time are ruled on without waiting for opposition. Thus, if you wish to oppose an application for extension of time, you must file the opposition (or call the clerk’s office and let them know you will be filing an opposition) right away.

Abandonment, Settlement, and Dismissal

At some point in the appellate process, the appellant may decide to abandon the appeal. If this happens before the record has been filed, the appellant should file and serve a written abandonment or stipulation for abandonment at the appeals section of the superior court. The filing effects a dismissal of the appeal. (See [Sample Form T](#).) (CRC rule 20(b).) If the clerk’s transcript has not been completed, the portion of the deposit that has not been used should be refunded. (CRC rule 5(d).) If the record has been filed, the appellant should file and serve a written request or stipulation to dismiss in the Court of Appeal. (Form APP-007 (see [Sample Form U](#)).) At this stage, the court has the discretion to accept or deny the request. (CRC rule 20(c).)

If the parties are able to agree on a settlement of their differences, the appellant should immediately notify the court in writing that the matter has settled and file an abandonment or request a dismissal of the appeal. (CRC rule 20(a)-(c).)

If at any time the respondent believes the appeal should be dismissed, the respondent should file and serve a motion to dismiss. If the Notice of Appeal is late, or “untimely,” the court has no power to hear the appeal, and the case will be dismissed. If the ruling is not appealable, the court may dismiss or it may elect to hear the case as a writ. The court will exercise its discretion in considering other dismissal motions, and may deny such motions if the issues raised in the appeal involve the public interest and not just the parties to the appeal.

Online Case Information & E-mail Notification

You may see online information about your individual case at the website for the Second Appellate District at www.courtinfo.ca.gov/2dca, click on Case Information. Once you reach the website, you may access information about your own case by searching for the:

- Court of Appeal case number
- the trial court case number
- party name
- attorney name or
- case caption.

The best method is to use the Court of Appeal case number. Once you get to the case information summary screen for your case, you may get additional information by clicking on one of the choices under "Detailed Information." You may view all of the:

- docket entries for your case
- a summary of future scheduled actions
- a briefing summary
- the disposition (if the opinion has been issued)
- party and attorney information (including attorney addresses)
- and trial court information (including name of trial judge and date of judgment)

You may also request automatic e-mail notifications about future actions taken in your case by clicking on "E-mail Notification" on the case summary page.

If you provide your e-mail address, you can ask to be automatically notified of certain events that occur in the case. You may choose to be notified when the record on appeal is filed, when a brief is filed, when the court sends a calendar (oral argument) notice, when the court finally disposes of the appeal, and when the remittitur is issued.⁹ Whether or not you sign up for e-mail notification, you will still be notified of all of these events by a mailed notice from the court.

⁹ The remittitur is the final document the Court of Appeal files. It returns the case to the trial court and tells that court what to do as a result of what the Court of Appeal decided. (See [Chapter 7](#), for a further discussion of remittiturs.)

Sample Form C

PROOF OF SERVICE BY MAIL INSTRUCTIONS FOR SUPERIOR COURT OR COURT OF APPEAL

Each document you prepare must be served on all counsel and self-represented parties in your case. The document must be served by mail or hand-delivered by someone who is over the age of 18, not a party to the appeal, and a resident of the county where the mailing or delivery occurred.

This sample form is for service by mail, which is the easiest and most common method of service. If you wish to have the document delivered in person instead of mailed, you may adapt this sample form by replacing line 3 with language indicating the name of the person(s) to whom the document was delivered, the date and time of delivery, and the address where the delivery occurred. (For sample language for a hand-delivery, see page 4, line 3b of [Sample Form F](#).)

All documents must be served on all attorneys of record and any self-represented parties. **If the document is a brief, you must also serve one copy on the Superior Court and five copies on the California Supreme Court. If the document is a brief or petition, you must serve one copy on any public officer or agency required to be served by CRC rule 44.5.**

How to serve a document:

Make a copy of your document for each person or entity you must serve and enough copies for filing with the Court of Appeal. The person doing the mailing must complete the Proof of Service and attach an unsigned copy to each copy of the document being served. The person doing the service should mail a copy of the document to each person listed in the Proof of Service by depositing it in the United States mail with postage fully prepaid. The envelopes may be deposited in a United States post office or mailbox. The original document cannot be filed with the court until service has been completed by mailing the copies. After the envelopes have been deposited into the mail, the original Proof of Service should be signed and attached to the original document for filing.

Filling out the Proof of Service form:

Fill out the case name, Court of Appeal case number, and Superior Court case number. If you are filing the document in the Superior Court, use the Superior Court case name. If you are filing in the Court of Appeal, use the Court of Appeal case name.

Fill out the name of the non-party over the age of 18 who will be doing the mailing.

On line 2, specify the residential or business address of the person doing the mailing, and check the appropriate line for residence or business.

On line 3, specify the date of the mailing, the name of the document being served (for example, "Appellant's Opening Brief"), and the place where the mailing took place. List the full names and addresses of all the parties or their attorneys to whom the documents are being mailed. If the

Sample Form C

document is a brief, you must also serve the Superior Court, the California Supreme Court (4 copies). If the document is a brief or petition, you must serve any public officer or agency who must be served under CRC rule 44.5. These addresses must also be listed on the Proof of Service.

Date the Proof of Service, type or print the name of the person doing the mailing, and include the signature of the person doing the mailing.

An original Proof of Service must be attached to every original document filed with the court. A copy of the Proof of Service must be attached to every document served on all counsel and self-represented parties.

Sample Form C

PROOF OF SERVICE BY MAIL

CASE NAME: _____
COURT OF APPEAL CASE NUMBER: _____
SUPERIOR COURT CASE NUMBER: _____

I, _____ (*specify name of person doing service*), declare as follows:

1. At the time of service, I was at least 18 years of age and not a party to this legal action. I am a resident or employed in the county where the within-mentioned service occurred.

2. My residence or business address is (*specify*):

_____ residence _____ business

3. On _____ (*specify date*), I served the _____ (*specify document*) by United States mail as follows: I enclosed a copy in separate envelopes, with postage fully prepaid, addressed to each individual addressee named below, and I deposited each sealed envelope with the United States Postal Service in _____, California, for delivery as follows:

(*List addresses and send 1 copy to each party*)

California Supreme Court
350 McAllister Street
San Francisco, CA 94102
(*5 copies of briefs only*)

_____ Superior Court

(*List address of Superior Court and serve 1 copy of briefs only*)

(*List address of any public officer or agency required to be served by CRC rule 44.5 and serve 1 copy of briefs only*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(*TYPE OR PRINT NAME*)

(*SIGNATURE OF DECLARANT*)

Sample Form L

MEMORANDUM OF POINTS AND AUTHORITIES FOR MOTION TO AUGMENT - INSTRUCTIONS

A Memorandum of Points and Authorities in support of your motion to augment must be attached to the motion to augment. **[NOTE: This memorandum is only a sample. You should give your own reason in paragraph 2 and your own circumstances in paragraph 3 as to why you need to augment the record and why there is no prejudice.]**

You should attach your memorandum and a supporting declaration ([Sample Form M](#)) to one of the three forms of motions to augment set forth in this manual. ([Sample Forms N, O, P.](#)) You must also attach a proof of service of all these documents. ([Sample Form C.](#)) These should all be stapled together in one document, with the caption page of the motion to augment in front.

Filling out the Memorandum of Points and Authorities Form:

- (1) Today's date.
- (2) Your signature.
- (3) Type or legibly print your name.

File: Original plus 3 copies of:

Motion to Augment ([Sample Form N, O, or P](#))
Memorandum of Points and
Authorities ([Sample Form L](#))
Declaration ([Sample Form M](#))
Proof of Service ([Sample Form C](#))

Provide an extra copy to be file-stamped
for your file.

Serve: Superior Court
All counsel
All self-represented parties

Sample Form L

MEMORANDUM OF POINTS AND AUTHORITIES

AUGMENTATION SHOULD BE ORDERED TO ALLOW APPELLANT TO RECEIVE FULL AND FAIR APPELLATE REVIEW

Rule 12(a) of California Rules of Court permits the augmentation of the appellate record and specifically under Rule 12(a)(1) allows a certified transcript or document not designated under Rule 4 to be augmented and permitted. It is well established that this rule is to be construed liberally. (*People v. Brooks* (1980) 26 Cal.3d 471, 484.)

The need for augmentation here is compelling. Appellant believes the trial court erred in granting summary judgment based on its own determination of the credibility of conflicting declarations. The issue can only be reviewed on appeal if the reporter's transcript of the court's comments before ruling is part of the appellate record.

Not only is augmentation necessary, it will not prejudice any party. The augmentation request concerns documents which were all part of the record. Additionally, the augmentation will not cause a substantial delay in this appeal.

CONCLUSION

For the above reasons, this Court should order the record to be augmented on appeal by including the reporter's transcript or document(s) requested in this motion.

Dated: (1) _____

Respectfully Submitted,

(2) _____
Signature

(3) _____
Type or Print Name

Sample Form M

DECLARATION IN SUPPORT OF MOTION TO AUGMENT - INSTRUCTIONS

A declaration in support of your motion to augment must be attached to the motion.
[NOTE: This declaration is only a sample. You should insert you own reasons in paragraphs 3 and 4 and add your own support for paragraph 6.]

Filling out the Declaration in Support of Motion to Augment form:

- (1) Your name.
- (2) The date of the hearing you want to augment.
- (3) The name of the Superior Court judge who presided at the hearing you want transcribed.
- (4) The date of the hearing you want to augment.
- (5) Today's date.
- (6) Month and year.
- (7) City where you signed the declaration.
- (8) Your signature.
- (9) Type or legibly print your name.

File: Original plus 3 copies of:

Motion to Augment ([Sample Form N](#), [O](#), or [P](#))
Memorandum of Points and
Authorities ([Sample Form L](#))
Declaration ([Sample Form M](#))
Proof of Service ([Sample Form C](#))

Provide an extra copy to be file-stamped
for your file.

Serve: Superior Court
All counsel
All self-represented parties

Sample Form M

DECLARATION IN SUPPORT OF MOTION TO AUGMENT

I, (1) _____, declare and state as follows:

1. I am a self-represented litigant.

2. On (2) _____, I argued the matter before the Honorable
(3) _____. The court reporter reported the matter.

3. I did not order the reporter's transcript of (4) _____, thinking it was unnecessary.

4. I believe the court used the incorrect standard of review. The court's comments before announcing its ruling are material to this issue. The transcript of that hearing is therefore a necessary element of the record on appeal.

If documents attached use 5 below:

5. Because the document(s) requested is attached to this motion, there will be no significant delay, and possibly no delay at all with this appeal.

6. I know of no prejudice to any party as a result of the granting of this motion.

7. This motion is made in good faith for the reasons set forth above and not for the purposes of delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this (5) _____ day of (6) _____, at (7) _____,
California.

(8) _____
Signature

(9) _____
Type or Print Name

Sample Form N

MOTION TO AUGMENT RECORD ON APPEAL (DOCUMENTS ATTACHED) - INSTRUCTIONS

After the record on appeal is filed, you might discover there is something missing from the record that you think the court should consider when deciding your case. You may make a Motion to Augment Record on Appeal (Documents Attached). Attach the documents to your motion to augment that you want added to the record on appeal. The motion is filed in the Court of Appeal. You must file an original plus three copies of the motion with points and authorities and your declaration ([Sample Forms L & M](#), adapted to fit your specific request). You must serve your motion on all parties. ([Sample Form C.](#)) The motion, memorandum, declaration, attached documents, and proof of service may be stapled together in one document, with the caption page of the motion in front.

Filling out the Motion to Augment Record on Appeal (Documents Attached):

- (1) Your name.
- (2) Your mailing address.
- (3) Your city, state and zip code.
- (4) Your telephone number where you can be reached during the day.
- (5) The plaintiff's name as it appears on your Superior Court caption.
- (6) Whether plaintiff is "appellant" or "respondent".
- (7) The defendant's name as it appears on your Superior Court caption.
- (8) Whether defendant is "appellant" or "respondent".
- (9) The Court of Appeal case number.
- (10) The Superior Court number from your Superior Court case.
- (11) Your name.
- (12) List the documents you are attaching, for example:
 1. Order dated August 20, 2004.
 2. Declaration of John Doe dated August 30, 2004.
- (13) State why you are requesting the item(s) be added. For example, forgot to list it in Notice Designating Record, just learned I need the item to support argument, etc.

Sample Form N

(14) The city and state in which the motion is being filed.

(15) Today's date.

(16) Month and year.

(17) Your signature.

(18) Type or legibly print your name
.

File: Original plus 3 copies of:

Motion to Augment ([Sample Form N, O, or P](#))

Memorandum of Points and
Authorities ([Sample Form L](#))

Declaration ([Sample Form M](#))

Attached documents

Proof of Service ([Sample Form C](#))

Provide an extra copy to be file-stamped
for your file.

Serve: Superior Court
All counsel

Sample Form N

(1)
(2)
(3)
(4)

Self-represented

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION [Insert division #]
STATE OF CALIFORNIA

(5)

Plaintiff and (6)

v.

(7)

Defendant and (8)

(9)

(Superior Court No. (10))

MOTION TO AUGMENT RECORD ON
APPEAL (DOCUMENTS ATTACHED)

Pursuant to Rule 12(a) of the California Rules of Court, I, (11)
, request augmentation of the record on appeal to include documents in this case that were not
included in the Clerk's Transcript. Copies of the documents to be added to the record are
attached to this motion. Those documents are:

(12)

I am requesting that these documents be added to the record because:

(13)

I declare under penalty of perjury that the foregoing is true and correct.

Executed at [city, state] this (14)

day of (15)

(16)

Signature

(17)

Type or Print Name

Sample Form O

MOTION TO AUGMENT RECORD ON APPEAL (DOCUMENTS REQUESTED) - INSTRUCTIONS

After the record on appeal is filed, you might discover there is something missing from the record that you think the court should consider when deciding your case. If you do not have copies of the documents you want to include, you may make a Motion to Augment Record on Appeal (Documents Requested). The motion with points and authorities and your declaration ([Sample Forms L & M](#), adapted to fit your specific request) is filed in the Court of Appeal. You must file an original plus three copies. You must serve your motion on the Superior Court, all counsel and all self-represented parties, and you must file a proof of service. ([Sample Form C.](#)) The motion, memorandum, declaration, and proof of service may be stapled together in one document, with the caption page of the motion in front. If the court grants your motion, the Superior Court clerk will give you an estimate of how much it will cost to copy the documents you list to be included in the record. If you do not pay it, you will be placed in default.

Filling out the Motion to Augment Record on Appeal (Documents Requested):

- (1) Your name.
- (2) Your mailing address.
- (3) Your city, state and zip code.
- (4) Your telephone number where you can be reached during the day.
- (5) The plaintiff's name as it appears on your Superior Court caption.
- (6) Whether plaintiff is "appellant" or "respondent".
- (7) The defendant's name as it appears on your Superior Court caption.
- (8) Whether defendant is "appellant" or "respondent".
- (9) The Court of Appeal case number.
- (10) The Superior Court number from your Superior Court case.
- (11) Your name.

Sample Form O

(12) List the documents you are requesting, for example:

1. Order dated August 20, 2004.
2. Declaration of John Doe dated August 30, 2004.

(13) State why you are requesting the item(s) be added. For example, forgot to include it in Notice Designating Record, etc.

(14) The city and state in which the motion is being made.

(15) Today's date.

(16) Month and year.

(17) Your signature.

(18) Type or legibly print your name.

File: Original plus 3 copies of:

Motion to Augment ([Sample Form N, O, or P](#))
Memorandum of Points and
Authorities ([Sample Form L](#))
Declaration ([Sample Form M](#))
Proof of Service ([Sample Form C](#))

Provide an extra copy to be file-stamped
for your file.

Serve: Superior Court
All counsel
All self-represented parties

Sample Form O

(1)
(2)
(3)
(4)

Self-represented

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION [Insert division #]
STATE OF CALIFORNIA

(5) _____,

Plaintiff and (6) _____,

v.

(7) _____,

Defendant and (8) _____.

(9) _____.

(Superior Court No. (10) _____)

MOTION TO AUGMENT RECORD ON
APPEAL (DOCUMENTS REQUESTED)

Pursuant to Rule 12(a) of the California Rules of Court, I, (11) _____,
request augmentation of the record on appeal to include documents in this case that were not
included in the Clerk's Transcript. Those documents are:

(12) _____

The reason I am requesting the items(s) is:

(13) _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed at (14) _____, this (15) _____ day of (16) _____.

(17) _____

Signature

(18) _____

Type or Print Name

Sample Form P

MOTION TO AUGMENT RECORD ON APPEAL WITH REPORTER'S TRANSCRIPT - INSTRUCTIONS

After the record on appeal is filed, you might discover there is a transcript of a proceeding missing from the record that you think the court should consider when deciding your case. You may make a Motion to Augment Record on Appeal With Reporter's Transcript. You must specify the date and approximate time of each proceeding you want transcribed. If you have the name of the court reporter, it would be helpful to include it. The motion with points and authorities and your declaration ([Sample Forms L & M](#), adapted to fit your specific request) are filed in the Court of Appeal. You must file an original plus three copies. You must serve your motion on the Superior Court, all counsel and all self-represented parties, and you must file a proof of service. ([Sample Form C](#).) The motion, memorandum, declaration, and proof of service may be stapled together in one document, with the caption page of the motion in front. If the court grants your motion, you will have to pay for the reporter's transcript. (See CRC rule 4(b).) The Superior Court clerk or court reporter will give you an estimate of how much the transcript you are requesting will cost. If you do not pay, you will be placed in default.

Filling out the Motion to Augment Record on Appeal With Reporter's Transcript:

- (1) Your name.
- (2) Your mailing address.
- (3) Your city, state and zip code.
- (4) Your telephone number where you can be reached during the day.
- (5) The plaintiff's name as it appears on your Superior Court caption.
- (6) Whether plaintiff is "appellant" or "respondent".
- (7) The defendant's name as it appears on your Superior Court caption.
- (8) Whether defendant is "appellant" or "respondent".
- (9) The Court of Appeal case number.
- (10) The Superior Court number from your Superior Court case.
- (11) Your name.

Sample Form P

(12) List the proceedings, date, and time, and court reporters name, for example:

1. Hearing on June 15, 2004 from 9:00 a.m. to 11:30 a.m. Court reporter is John Doe.
2. Hearing on June 16, 2004, all day beginning at 9:00 a.m. Court reporter is Jane Doe.

(13) Write the reason you need to augment the record.

(14) The city and state in which the motion is being filed.

(15) Today's date.

(16) Month and year.

(17) Your signature.

(18) Type or legibly print your name.

File: Original plus 3 copies of:

Motion to Augment ([Sample Form N, O, or P](#))
Memorandum of Points and
Authorities ([Sample Form L](#))
Declaration ([Sample Form M](#))
Proof of Service ([Sample Form C](#))

Provide an extra copy to be file-stamped
for your file.

Serve: Superior Court
All counsel
All self-represented parties

Sample Form P

(1)
(2)
(3)
(4)

Self-represented

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION [Insert division #]
STATE OF CALIFORNIA

(5) _____,

Plaintiff and (6) _____,

v.

(7) _____,

Defendant and (8) _____.

(9) _____.

(Superior Court No. (10) _____)

MOTION TO AUGMENT RECORD ON
APPEAL WITH REPORTER'S
TRANSCRIPT

Pursuant to Rule 12(a) of the California Rules of Court, I, (11) _____,

request augmentation of the record on appeal to include the reporter's transcript(s) listed below.

(12) _____

The reason I am requesting to augment the record is:

(13) _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed at (14) _____, this (15) _____ day of (16) _____.

(17) _____

Signature

(18) _____

Type or Print Name

Sample Form Q

STIPULATION TO EXTEND TIME TO FILE BRIEF - INSTRUCTIONS

The parties may stipulate to extend the briefing time for up to 60 days for each type of brief by filing one or more stipulations in the Court of Appeal **before** the brief is due. (CRC rule 15(b).) The stipulation must be signed by and served on all parties.

Filling out the Stipulation to Extend Time form:

- (1) Your name.
- (2) Your mailing address.
- (3) Your city, state and zip code.
- (4) Your telephone number where you can be reached during the day.
- (5) The plaintiff's name as it appears on your Superior Court caption.
- (6) Whether plaintiff is "appellant" or "respondent".
- (7) The defendant's name as it appears on your Superior Court caption.
- (8) Whether defendant is "appellant" or "respondent".
- (9) The Court of Appeal case number.
- (10) The Superior Court number from your Superior Court case.
- (11) Name of the brief for which you are requesting an extension: appellant's opening, respondent's or appellant's reply.
- (12) The date which will be the *new* due for the brief.
- (13) Name of person or counsel *agreeing* to grant the extension.
- (14) Name of person or counsel *requesting* the extension.
- (15) Number of days you are requesting the time to be extended.
- (16) Name of the brief for which you are requesting an extension: appellant's opening, respondent's or appellant reply.

Sample Form Q

(17) Name of the brief for which you are requesting an extension: appellant's opening, respondent's or appellant reply.

(18) New due date of your brief.

(19) Today's date.

(20) Signature of the party filing the stipulation.

(21) Date opposing party signed stipulation.

(22) Signature of opposing party.

File: Original and one copy with Proof of Service on all counsel and self-represented parties

Serve: All counsel
All self-represented parties
(If you are an attorney, serve your client.)

Sample Form Q

(1)
(2)
(3)
(4)

Self-represented

COURT OF APPEAL, SECOND APPELLATE DISTRICT
DIVISION [Insert division #]
STATE OF CALIFORNIA

(5) _____,
Plaintiff and (6) _____,
v.
(7) _____,
Defendant and (8) _____.

D (9) _____
(Superior Court No. (10) _____)
STIPULATION TO EXTEND TIME TO
FILE (11) _____,
BRIEF TO (12) _____.

The undersigned counsel of record of the respective parties in the above-entitled action hereby stipulate as follows:

1. (13) _____ has agreed to grant (14) _____ a
(15) _____-day extension for filing its (16) _____ brief.

2. The parties agree that there will be no prejudice to either party as a result of this extension.

3. The parties agree that (17) _____ brief will now be due on
(18) _____.

Dated: (19) _____.

(20) _____
Signature of Party Filing Stipulation
(or counsel if represented)

Dated: (21) _____.

(22) _____
Signature of Opposing Party
(or counsel if represented)

Sample Form R

APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF - INSTRUCTIONS

If a party needs more than the 60 days already stipulated to, or if the opposing party refuses to stipulate to an extension, the party needing the extension must file an application for extension of time. The party seeking additional time must give reasons, also known as "**good cause**," why that extension is needed. (CRC rule 45.5.) You must serve a copy of your extension request on all parties (or the attorneys for represented parties). You should file an original of your extension request in the Court of Appeal, along with a proof of service. ([Sample Form C](#).) You must also provide the Clerk of the Court of Appeal with enough copies of the extension request for each party (including yourself) and stamped envelopes addressed to each party (including yourself). The Clerk will use these extra copies and envelopes to mail out the court's order granting or denying the extension request.

This form is available online in Adobe Acrobat PDF format and may be filled out electronically for free at www.courtinfo.ca.gov/cgi-bin/forms.cgi. Select "Appellate" forms, then click on Form APP-006.

Filling out the Application for Extension of Time to File Brief form:

Caption

- (1) Fill out the top box of the form as follows: "Court of Appeal, Second Appellate District, Division [insert division #]." Indicate the Court of Appeal case number and the Superior Court case number in the boxes to the right.
- (2) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (3) In the next box down, indicate your name next to "APPELLANT" and the responding party's name next to "RESPONDENT."

Page 1, entries 1-8

Entry 1. Check whether the extension is for appellant's opening brief, respondent's brief or appellant's reply brief and indicate the date the brief is due. Add the date you would like the brief to be due after the "be extended to (*date*)" language.

Entry 2. Check one of the two boxes to indicate whether or not CRC rule 17 notice has been received.

Entry 3. Check whether there have been previous extensions. If earlier extensions were received, indicate how many were granted by stipulation, how many by the court, and for each type of extension, the total number of days briefing has already been extended.

Entry 4. Check why you are unable to file a stipulation.

Sample Form R

Entry 5. Give "**good cause**" for the extension by explaining why the extension is needed. (See CRC rule 45.5(c) for a list of the relevant factors.)

Entry 6. If a brief has already been filed, check whether the most recent brief filed was the Appellant's Opening Brief ("AOB") or the Respondent's Brief ("RB"), and give the date it was filed. If no brief has yet been filed, leave this entry blank.

Entry 7. Fill out the requested information for the length of the appellate record and the date the record was filed.

Entry 8. Leave this box blank if you are representing yourself. If you are an attorney, serve a copy of the application on your client and check the box.

Date the form at the bottom of page 1, type or print your name legibly, and sign.

Page 2 - Proof of Service

Have someone over the age of 18 who is not a party to the action serve the application and fill out the Proof of Service on page 2 of the form. See instructions accompanying [Sample Form C](#).

File: Original with a Proof of Service on all counsel and self-represented parties (if you are an attorney, serve your client), together with copies and preaddressed, stamped envelopes for each party.

Serve: All counsel
All self-represented parties
(If you are an attorney, serve your client.)

Sample Form R

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number: Superior Court Case Number:
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): _____ TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
APPELLANT: RESPONDENT:	
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (CIVIL CASE)	

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form.

1. I (name):
 request that the time to file ☐ appellant's opening brief (AOB) ☐ respondent's brief (RB) ☐ appellant's reply brief (ARB), now due on (date):
 be extended to (date):
2. I ☐ have ☐ have not received a rule 17 notice.
3. I have received:

☐ no previous extensions to file this brief.
☐ the following previous extensions:

(number of extensions):
extensions by stipulation totaling (total number of days):

(number of extensions):
extensions from the court totaling (total number of days):
4. I am unable to file a stipulation to an extension because

☐ the other party is unwilling to stipulate to an extension.
☐ other reason (please specify):
5. The reason I need an extension to file this brief is (please specify; see Cal. Rules of Court, rule 45.5, for factors used in determining whether to grant extensions):
6. The last brief filed by any party was: ☐ AOB ☐ RB filed on (date):
7. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Appendix/Clerks Transcript:	_____	_____	_____
Reporters Transcript:	_____	_____	_____
Augmentation/other:	_____	_____	_____
8. For attorneys filing application on behalf of client:
☐ I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule 45(f)).
 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

 Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

EXTENSION OF TIME IS:

ORDER

- ☐ Granted to _____
- ☐ Denied

Date:

(SIGNATURE OF PRESIDING JUSTICE)

Page 1 of 2

Sample Form R

CASE NAME:

CASE NUMBER:

NOTICE: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. YOU MAY NOT PERFORM THE MAILING OR DELIVERY YOURSELF. You must have a person who is at least 18 years old complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

PROOF OF SERVICE

☐ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.
2. My residence or business address is (*specify*):
3. I mailed or personally delivered a copy of the *Application for Extension of Time to File Brief (Civil Case)* as follows (*complete either a or b*):
 - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope **and**
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DECLARANT)

Sample Form T

ABANDONMENT OF APPEAL (UNLIMITED CIVIL CASE) INSTRUCTIONS

If you wish to abandon your civil appeal **BEFORE** the record is filed, you should file a written Abandonment of Appeal (Unlimited Civil Case) form in the **Superior Court**.

This form is available online in Adobe Acrobat PDF format and may be filled out electronically for free at www.courtinfo.ca.gov/cgi-bin/forms.cgi. Select "Appellate" forms, then click on Form APP-005.

Filling out the Abandonment of Appeal (Unlimited Civil Case) form:

Caption

- (1) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (2) In the "Superior Court of California, County of" area of the form, specify the county, address, and branch name of the superior court that made the order or judgment you are appealing.
- (3) In the next box on the form marked "PLAINTIFF/PETITIONER" and "DEFENDANT/RESPONDENT" fill out the plaintiff's name and defendant's name as they appear in the superior court case caption.
- (4) In the "Superior Court Case Number" box to the right, write the superior court case number.
- (5) In the "Court of Appeal Case Number (*if known*)" box, write the Court of Appeal case number, if you know it.

Abandonment Statement

Fill in the date your Notice of Appeal was filed. At the bottom of the form, write the current date, type or print your name legibly, and sign the form.

Page Two (Proof of Service)

Have someone over the age of 18 who is not a party to the action serve the Abandonment of Appeal and fill out the Proof of Service on page 4 of the form. See instructions accompanying [Sample Form C](#).

File: Original with **Superior Court**
Provide an extra copy to be file-stamped
for your file.

Serve: All counsel
All self-represented parties

Sample Form T

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: FAX NO. (<i>Optional</i>): E-MAIL ADDRESS (<i>Optional</i>): ATTORNEY FOR (<i>Name</i>):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	Superior Court Case Number:
ABANDONMENT OF APPEAL (UNLIMITED CIVIL CASE)	Court of Appeal Case Number (<i>if known</i>):

The undersigned appellant hereby abandons the appeal filed on (*date*)

in the above entitled action.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

NOTE: File this form in the superior court if the record has not yet been filed in the Court of Appeal. If the record has already been filed in the Court of Appeal, you cannot use this form; you must file a request for dismissal in the Court of Appeal. You can use form APP-007 to file a request for dismissal in the Court of Appeal.

Sample Form T

CASE NAME:

CASE NUMBER:

NOTICE: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. YOU MAY NOT PERFORM THE MAILING OR DELIVERY YOURSELF. You must have a person who is at least 18 years old complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

PROOF OF SERVICE

☐ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.
2. My residence or business address is (*specify*):
3. I mailed or personally delivered a copy of the *Abandonment of Appeal (Unlimited Civil Case)* as follows (*complete either a or b*):
 - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope **and**
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Sample Form U

REQUEST FOR DISMISSAL OF APPEAL (CIVIL CASE) INSTRUCTIONS

If you wish to abandon your civil appeal **AFTER** the record is filed, you should file a written Request for Dismissal of Appeal (Civil Case) form in the **Court of Appeal**. Dismissal of the appeal is discretionary with the Court of Appeal.

This form is available online in Adobe Acrobat PDF format and may be filled out electronically for free at www.courtinfo.ca.gov/cgi-bin/forms.cgi. Select "Appellate" forms, then click on Form APP-007.

Filling out the Request for Dismissal of Appeal (Civil Case) form:

Caption

- (1) Fill out the top box of the form as follows: "Court of Appeal, Second Appellate District, Division [Insert division #]." Indicate the Court of Appeal case number and the Superior Court case number in the boxes to the right.
- (2) In the "Attorney or Party Without Attorney" area at the top of the form, fill out your name, mailing address, and telephone number where you can be reached during the day.
- (3) In the next box down, indicate your name next to "APPELLANT" and the responding party's name next to "RESPONDENT."

Dismissal Request

Write in the date your Notice of Appeal was filed. At the bottom of the form, write the current date, type or print your name legibly, and sign the form.

Page Two (Proof of Service)

Have someone over the age of 18 who is not a party to the action serve the Request for Dismissal and fill out the Proof of Service on page 4 of the form. See instructions accompanying [Sample Form C](#).

File: Original plus 3 copies with
Court of Appeal

Provide an extra copy to be file-stamped
for your file.

Serve: All counsel
All self-represented parties

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____ <div style="text-align: center; font-size: 2em; font-weight: bold;">Sample Form U</div>	Court of Appeal Case Number (if known): <hr/> Superior Court Case Number: <hr/>
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <hr/> TELEPHONE NO.: E-MAIL ADDRESS (Optional): FAX NO. (Optional): ATTORNEY FOR (Name):	<div style="text-align: center; font-weight: bold;">FOR COURT USE ONLY</div>
APPELLANT: RESPONDENT:	
<div style="text-align: center; font-weight: bold;">REQUEST FOR DISMISSAL OF APPEAL (CIVIL CASE)</div>	

The undersigned appellant hereby requests that the appeal filed on (date)

in the above entitled action be dismissed.

Date:



(TYPE OR PRINT NAME)

(SIGNATURE OF APPELLANT OR ATTORNEY)

NOTE: File this form in the Court of Appeal if the record on appeal has already been filed in the Court of Appeal. If the record has not yet been filed in the Court of Appeal, you cannot use this form; you must file an *Abandonment of Appeal ((Unlimited Civil Case) (form APP-005)* in the superior court.

Sample Form U

CASE NAME:

CASE NUMBER:

NOTICE: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. YOU MAY NOT PERFORM THE MAILING OR DELIVERY YOURSELF. You must have a person who is at least 18 years old complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

PROOF OF SERVICE

☐ Mail ☐ Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My residence or business address is (*specify*):
3. I mailed or personally delivered a copy of the *Request for Dismissal of Appeal (Civil Case)* as follows (*complete either a or b*):
 - a. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope **and**
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. ☐ **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)